

STATE OF DELAWARE
DEPARTMENT OF INSURANCE

Delaware Department of Insurance

Request for Proposals for
Special Litigation Counsel

Bid Number: 01052009DDOI

Bid Closing: January 12, 2009; 3:00 p.m. EST

REQUEST FOR PROPOSALS TO PROVIDE LITIGATION COUNSEL ISSUED BY THE INSURANCE DEPARTMENT FOR THE STATE OF DELAWARE

Executive Summary

The Delaware Department of Insurance (“DOI”) is issuing this Request for Proposals (“RFP”) for the State of Delaware. The DOI seeks to engage a law firms to act as Outside Litigation Counsel (“DOI Counsel”) in connection with a pending Administrative and Chancery Court Action in which the DOI is a defendant.

The DOI consists of four divisions: (1) Bureau of Company Examination, Rehabilitation & Guaranty; (2) Consumer Services & Investigations Division; (3) Producer Licensing & Continuing Education Division; and (4) the Fraud Prevention Bureau. The DOI is tasked with ensuring reliable insurance coverage at reasonable rates for Delaware consumers.

The DOI anticipates that, after conducting interviews, it will select a firm to represent the DOI in connection with a pending Chancery Court action disputing the DOI’s authority to establish certain rates.. This RFP will define the scope of the work to be performed, the requirements the vendor (“Vendor”) must address, the method for response, and the administrative requirements that must be followed. The DOI will advise potential Vendors of changes to any dates as may be necessary. The DOI also reserves the right to modify and/or cancel this solicitation at any time during the RFP process.

RFP Schedule

ID	Date/Time	Activity
1	January 6, 2009	Request for Proposal issued and Posted on DOJ and DOI websites.
2	January 8, 2009	DOJ issues answers to questions regarding the RFP via DOJ website at http://attorneygeneral.delaware.gov/ and the DOI website at http://www.delawareinsurance.gov/
3	January 12, 2009; 3:00 p.m. EST	RFP Response due date
4	January 14, 2009	Begin Vendor Interviews (subject to change)
5	January 14, 2009	Begin Negotiations (subject to change)

All interested firms should submit an original and 5 bound copies of their proposals ("Proposal") to the contact person. Proposals may be mailed or hand-delivered for receipt no later than 3:00 p.m. EST on January 8, 2009 ("Closing Date"). All timely Proposals become the property of the DOI. Requests for extensions of the Closing Date will not be granted. Any Proposal, request for modification, or request for withdrawal received after 3:00 p.m. on the Closing Date is late and may not be considered. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), U.S. Mail, or by hand. Proposals shall be submitted to:

Cynthia L. Collins, Esq.
State of Delaware
Department of Justice
Carvel State Building
820 N. French Street, 6th Floor
Wilmington, Delaware 19801
Re: Insurance Department Litigation Counsel

Each proposal must be accompanied by a transmittal letter, which briefly summarizes the proposing firm's interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP, which the applicant may have taken in presenting the Proposal. DOI reserves the right to deny any and all exceptions taken to the RFP requirements.

The cost of preparing Proposals will be borne solely by the offerors. Proposals shall address all the questions posed by the DOI in the order in which they appear in this request.

RFP Designated Contact:

Please submit all questions and requests for information to:

Cynthia L. Collins
Deputy Attorney General
Carvel State Building
820 N. French Street, 6th Floor
Wilmington, Delaware 19801

Direct Dial: (302) 577-8405
Fax: (302) 577-6630
Email: Cynthia.Collins@state.de.us

All questions submitted, along with answers will be consolidated into a single Q&A document. The source of the questions will not be disclosed in the document. The Q&A document will be posted on the DOJ website at <http://attorneygeneral.delaware.gov/>

1.0 GENERAL INFORMATION

1.01 Project Scope and Objectives

This RFP seeks to retain the services of DOI Counsel to provide advice with respect to a pending Administrative and Chancery Court action involving the authority of the DOI to establish certain insurance rates.

1.02

Selected DOI Counsel will work closely with the Deputy Attorney General (“DAG”) assigned to act as general counsel to the DOI. From time to time, the DAG may refer the DOI Counsel to work directly with DOI Staff, including the Insurance Commissioner, and other Administrators as necessary to successfully defend the pending action. All advice is to be provided directly to the DAG or to one of these members of DOI, as referred by the DAG.

2.0 MINIMUM REQUIRED QUALIFICATIONS

2.01 Experience and Reputation

- A. The Vendor must have been in business at least three years.
- B. The Vendor should have at least five (5) or more year’s prior experience in representing clients before the Delaware Court of Chancery.
- C. The Vendor must designate a lead attorney licensed to practice law with five (5) or more years experience in Chancery Court litigation.

2.02 Professional Liability Insurance

The Vendor shall agree to maintain in full force and effect during the term of the Contract professional liability insurance in an aggregate amount of not less than \$2 million. In order to satisfy this requirement, the Vendor must:

- A. Include a statement in its Proposal affirmatively responding to this requirement; and
- B. Include in its Proposal either:
 - 1) A certificate of insurance or letter from its insurer demonstrating that the Vendor meets this requirement, or

- 2) A commitment letter or other evidence, satisfactory to the Procurement Officer, that Vendor will have such coverage as of the date the Contract commences.

If the Vendor is a joint venture, and one party of the joint venture does not presently have such liability insurance, this requirement may be satisfied if the members of the joint venture include in their proposal evidence, satisfactory to the Procurement Officer, that all members of the joint venture will have such coverage as of the date the Contract commences, either through actual insurance policies or an indemnity agreement by the properly insured firm, in form and substance acceptable to the DOI.

2.03 Vendor's Capacity

Each Vendor must demonstrate the capacity to perform the type of services needed by the DOI described in Section 1.01 above. The Vendor must be available at all times to render services required under the Contract.

3.0 TECHNICAL PROPOSAL FORMAT

The following information shall be provided in each proposal in the order listed below. A Vendor is expected to provide a response for each requirement listed in this RFP. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of the DOI.

3.01 General

All technical proposals shall be prepared with a concise description of the Vendor's capabilities to satisfy the minimum qualifications of Section 2 above and the information requested under Section 3 below. Vendors should organize their proposals so that their responses correspond to the specific subsections to the extent possible without unnecessary repetition.

3.02 Required Information

The proposal shall contain the information described below. Joint ventures should provide the information separately for each firm.

A. Vendor's Prior Experience

1. General Information:

- (i) Within the past three years, have there been any significant developments in your firm such as changes in ownership or restructuring? Do you anticipate any significant changes in the future? Please describe.

- (ii) Has your firm or an attorney in your firm's employ even been disciplined or censured by any regulatory body? If so, describe the principal facts.
- (iii) Within the last five years, has your firm, or a partner or attorney in your firm, been involved in litigation or other legal proceedings relating to provision of legal services? If so, provide an explanation and indicate the current status or disposition.
- (iv) Please describe your firm's backup procedures in the event one or more attorneys assigned to the DOI leave the firm. Identify the key attorney who will be the primary contact and lead counsel in providing services to DOI, whose continuing status as such is an essential element of this contract.

2. Chancery Court Litigation Experience:

- (i) Provide a detailed description of the Vendor's experience in Chancery Court Litigation related matters during the last five (5) years, including any involvement with issues relating to administrative law issues.
- (ii) Describe the Vendor's experience in the last five (5) years representing or advising public sector clients in administrative law issues.
- (iii) Provide a brief description of areas of the law related to the purpose of this RFP in which the Vendor has an expertise, including, but not limited to, administrative law, and contract law.

B. Conflicts of Interest.

- 1. In general. If a conflict of interest arises, the Vendor should be willing to continue to represent the DOI and be in a position to inform other existing or potential clients that they must find representation elsewhere in particular situations. The Attorney General may entertain a request for a waiver of a Vendor's representation of a party in litigation involving a unit of State government other than the DOI, but does not expect to waive any other conflicts.

The DOI reserves the right, in its sole discretion, to select another approved law firm to work on a particular matter if a conflict is not resolved to its satisfaction.

Each Vendor shall identify any conflicts of interest which may arise if the Vendor serves as Special Litigation Counsel and shall describe in its Proposal how it proposes to deal with such conflicts. Conflicts may arise not only from attorneys names on the contract but also from representation of parties involved in the transactions or other matters involving the DOI by any member of the firm, regardless of whether that attorney is in the same office or a different office of the firm.

4.0 PRICE PROPOSAL FORMAT

4.01 Billing Rates

- A. Current billing Rates for all attorneys assigned to represent the DOI pursuant to this RFP and any applicable discounts;
- B. Current billing Rates for all para-professionals assigned to represent the DOI pursuant to this RFP and any applicable discounts;
- C. No compensation will be permitted for the services of law clerks and law school graduates not admitted to practice.

4.02 Alternative Pricing Proposals

Although each Vendor is required to submit a price proposal containing the information set forth in Part 4.1, the DOI will also accept proposals for alternative billing arrangements, which enhance the value and efficiency of the services to be provided. The Vendor may submit a statement, not more than one page in length, with respect to any alternative pricing proposal.

5.0 EVALUATION OF PROPOSALS

The selection committee shall evaluate the proposals. During the evaluation process the selection committee may, at its discretion, request any or all firms to make oral presentations or participate in a formal interview. Such presentation or interviews will provide firms with an opportunity to answer questions about a firm's Proposal. Not all firms may be asked to make an oral presentation or to attend an interview.

5.01 Selection Criteria

The selection of the firm to provide legal services will be based on an evaluation of the Proposals to determine which Proposal reflects the best value to the DOI, with technical factors generally being considered more important than cost of services. The selection of the firm to provide legal services will be based upon the following technical factors in descending order of importance.

- A. Experience of the firm and the individual attorneys representing clients in Chancery Court litigation;
- B. Experience with or knowledge of Chancery Court litigation and Administrative proceedings on behalf of governmental agencies;
- C. Experience of the firm and the individual attorneys representing governmental agencies generally;
- D. Administrative structure of representation (i.e., proposed staffing assignments), soundness of approach to representation and understanding of the needs of the DOI;
- E. Demonstrated ability to perform the services referred to under Project Scope and Objectives, and
- F. References and recommendations of other clients.

5.02 Contract Negotiation

The DOI intends on opening negotiations with Vendors that the DOI determines have a reasonable likelihood of being awarded a contract based on the proposals that are submitted. Negotiations will focus on any technical weaknesses or deficiencies in proposals as well as cost and pricing issues.

A written contract with each of the selected the law firms will be required. Each contract must be approved by the Attorney General of the State of Delaware and the Governor of the State of Delaware pursuant to 29 *Del. C.* § 2507.

5.03 Contract Award

The DOI reserves the right to award all, part, or none of this contract. The DOI intends to award a contracts to one law firm if deemed appropriate and desirable.